



STATE OF CONNECTICUT

**SUPREME COURT
APPELLATE COURT**

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December 6, 2022

THE SUPREME COURT IS SOLICITING AMICUS CURIAE BRIEFS IN:

SC 20753

Marline Adesokan et al. v. Town of Bloomfield et al.

The Court invites amici curiae to file briefs in the above-captioned matter that address the following questions:

"The Court invites amici curiae to file briefs in the above-captioned matter that address the applicability of *Daley v. Kashmanian*, 344 Conn. 464 (2022) to *Adesokan v. Bloomfield*, SC 20753."

As this is a Court-initiated request, an application for permission to file as amicus curiae is not required. If you accept the Court's invitation, you must file the amicus brief limited to 10 pages on or before December 29, 2022, in compliance with Practice Book Section 67-7, including the disclosure required in the first footnote on the first page of text. No extensions of time or argument will be permitted for amicus curiae.

Below please find the case summary that was prepared for the general public by court staff attached to this invitation. It does not represent the Court's view of this case.

If you have any questions, please call 860-757-2200.

Judicial District of Hartford

Governmental Immunity; Identifiable Person-Imminent Harm Exception; General Statutes § 14-283; Whether Trial Court Properly Concluded that Defendant Entitled to Governmental Immunity for Accident Involving Police Cruiser Responding to an Emergency. The plaintiff was driving her two children to daycare and summer camp in August, 2017, when she stopped at an intersection in a construction zone before making a left turn at the direction of a construction worker. At the same time, the defendant officer from the defendant town's police department was responding to a report of a kidnapping with his emergency lights and sirens activated. When the plaintiff attempted to make the left turn, her vehicle was struck by the police cruiser as it tried to pass. The plaintiff, on behalf of herself and her children, brought this action against the town and the officer, alleging that the officer had been negligent by, inter alia, traveling at an excessive speed in violation of General Statutes § 14-283 (d), which requires those who operate emergency vehicles "to drive with due regard for the safety of all persons and property." The defendants moved for summary judgment on the ground of governmental immunity for the officer's discretionary acts and omissions, citing the Supreme Court's recent decision in *Borelli v. Renaldi* (336 Conn. 1). The court in *Borelli* reasoned that § 14-283 (d) "imposes a discretionary duty to act" but limited its decision to "an officer's decision to initiate a pursuit." The trial court here, relying on *Borelli*, concluded that the officer's manner of operating the emergency vehicle was discretionary, and, therefore, the town was entitled to immunity. The court also rejected the plaintiffs' claim that they fit an exception to governmental immunity for identifiable victims who are subject to imminent harm, finding that the plaintiffs were not exposed to imminent harm and had not presented evidence that they were within a class of identifiable victims. The plaintiffs appealed to the Appellate Court, and the Supreme Court transferred the appeal to itself pursuant to General Statutes § 51-199 (c). The plaintiffs claim that there are issues of material fact and that the trial court misapplied *Borelli*, as the Supreme Court's holding was limited to an officer's initial decision to engage in a pursuit, which does not apply here to a negligence claim based on the manner in which the officer drove his emergency vehicle. The plaintiffs also claim that the court erred in rejecting their argument that the identifiable victim-imminent harm exception applied, and they argue that the court exceeded its authority because it should have allowed the jury to determine whether the officer was engaged in ministerial or discretionary acts as a question of fact. The defendants counter that the trial court correctly applied *Borelli* and that there were no underlying factual disputes that needed to be resolved under the identifiable person-imminent harm exception, which the court properly rejected. Furthermore, they argue that the

plaintiffs cannot rely on the fact that the construction worker directed the plaintiff mother to turn, as they failed to plead any such allegations in the complaint. The Supreme Court will also consider the effect, if any, of its decision in *Daley v. Kashmanian* (344 Conn. 464), which was released during the pendency of this appeal. In *Daley*, the Supreme Court reasoned that the operation of a nonemergency vehicle "is a highly regulated activity that constitutes a ministerial function," but the court left open the question of whether responding to an emergency call under § 14-283 "changes driving from a ministerial to a discretionary task."